

Federal Post

September Update on Changes to the *Canada Labour Code*

Date: September 6, 2019

We have reported on the changes to the *Canada Labour Code* (Code) which came into effect on [July 29, 2019](#) and on [September 1, 2019](#).

The federal government has published new Interpretations, Policies and Guidelines in support of some of these changes, as well as a summary of various amendments which have not yet been proclaimed into force and their anticipated in force dates. Proposed regulations for the incoming Part IV, Administrative Monetary Penalties, of the Code have also been recently published for comment.

Learn more in this *Federal Post*.

Interpretations, Policies and Guidelines in Support of Code Changes Published

The Labour Program has published [Interpretations, Policies and Guidelines](#) (IPGs) in support of the recent changes to the Code. These are set out below:

- Situation that the employer could not have reasonably foreseen – Exceptions (IPG 091)
- Imminent or serious threat – Exceptions (IPG 092)
- Threat of damage to or loss of property – Exceptions (IPG 093)
- Serious interference with the operation of the establishment – Exceptions (IPG 094)
- Reasonable steps (IPG 095)
- Family responsibilities (IPG 096)
- Family member (IPG 097)
- Reasonably practicable (IPG 098)
- Stacking (IPG 099)
- 30 minute breaks (IPG 100)
- Scope of Application (IPG 101)

Of particular interest is IPG 101, the Scope of Application, which outlines the scope of application of sections 169.1 (breaks), 169.2 (rest periods), 173.01 (notice of hours of work) and 173.1 (shift changes) of Part III of the Code. It states that the IPG will apply until the coming into force of related hours of work regulations exempting classes of employees from certain hours of work provisions or modifying those provisions for certain classes.

The IPG sets out a detailed schedule of job titles and whether that particular title is exempt from all or some of the provisions set out above (30 minute break, 8 hour rest period, 24 hour notice of shift change or 96 hour notice of schedule). It states that until the related regulations are in place “employers may carry on business as usual with respect to the job titles in continuous operations and associated provisions identified in the Schedule.”

In addition, the federal government has published a [Backgrounder](#) with respect to the changes that are currently in place.

But there are more changes to come, and not just with respect to the Code. The government has published a [summary of future legislative](#) changes, which include:

- a new harassment and violence regime under the Code (estimated to be in force as early as 2020)
- Code protection for interns in federally regulated workplaces (estimated to be in force in 2020)
- a federal *Pay Equity Act* (to be in force in 2020)
- pay transparency amendments to the *Employment Equity Act* (estimated to be in force in 2020).

Note as well that several recent changes to the Code, in addition to those cited above, are awaiting proclamation. These include provisions related to: equal pay for part-time, casual, temporary and seasonal employees; individual and group termination; the new Part IV Administrative Monetary Penalties; and more.

Regulations Proposed in Support of New Administrative Monetary Penalty Provisions

The federal government recently published [proposed Administrative Monetary Penalties Regulations](#) (Proposed Regulations) in support of the new Part IV, Administrative Monetary Penalties, of the Code which has been passed but which is not yet in force.

[As we previously reported](#), Part IV will implement administrative monetary penalties (AMPs) to enforce compliance with Parts II and III of the Code and provide an alternative to the enforcement measures which currently exist.

Among other things, the Proposed Regulations would:

- designate the violations under Part II and Part III which will be subject to the AMPs
- classify a designated violation in accordance with its level of risk and establish a corresponding method to determine the amount of the AMP
- provide for a reduction of an AMP upon certain conditions being met and in accordance

- with the classification of the designated violation
- establish a method of service for the notices of voluntary compliance (NoVs) and the requirements for a request for review
 - set out the information that can be published pursuant to the new section 295 of the Code that will allow the Minister to publicly name an employer which has committed a violation
 - establish the meaning of “regular rate of wages” for employees who have irregular work schedules and who are required to appear before the Canada Industrial Relations Board (employees who are summoned are entitled to be paid by their employer at their regular rate of wages for any time spent at the appeal).

Comments on the Proposed Regulations must be made within 90 days from August 24, 2019, the date they were published in the *Canada Gazette*.

Should you require any further information about the changes to the Code, or wish assistance in making representations on the Proposed Regulations, please contact [Jodi Gallagher Healy](#) at 519.931.5605 or [David Foster](#) at 519.931.5614.